



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18<sup>TH</sup> STREET - SUITE 300

DENVER, CO 80202-2466

<http://www.epa.gov/region08>

DOCKET NO.: CWA-08-2003-0039

IN THE MATTER OF:

EASTERN FARMERS COOP.

Respondent

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)  
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**FINAL ORDER**

Pursuant to 40 C.F.R. § 22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

March 25, 2003

DATE

SIGNED

Alfred C. Smith

Regional Judicial Officer



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VIII

**DOCKET NO.: CWA-08-2003-0039**

|                             |   |                                    |
|-----------------------------|---|------------------------------------|
| In the Matter of:           | ) |                                    |
|                             | ) |                                    |
| Eastern Farmers Cooperative | ) | <b>EXPEDITED CONSENT AGREEMENT</b> |
|                             | ) |                                    |
| Respondent.                 | ) |                                    |

Complainant, United States Environmental Protection Agency, Region VIII, and Respondent, Eastern Farmers Cooperative by their undersigned representatives, hereby settle the civil cause of action arising out of violations of the Spill Prevention Control and Countermeasures (SPCC) Plan regulations found during an inspection on September 6, 2001, and agree as follows:

The Clean Water Act (the Act), as amended, 33 U.S.C. § 1321(b)(6), authorizes the Administrator of EPA to assess administrative penalties against any person who violates the oil pollution prevention (SPCC) regulations, promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j). This authority has been properly delegated to the undersigned EPA official.

Respondent owns and/or operates a bulk fuel distribution facility, Eastern Farmers Cooperative, located at 601 Depot Street, Garretson, South Dakota.

Respondent admits its facility is subject to the SPCC regulations.

Respondent agrees to correct the items cited on the attached List of SPCC Violations within thirty (30) days unless an extension for achieving compliance is granted by EPA at its discretion.

Respondent admits that EPA has jurisdiction in this proceeding.

Respondent waives its right to a hearing before any civil tribunal, to contest any issue of law or fact set forth in this agreement.

This agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement.

This Agreement contains all terms of the settlement agreed to by the parties.

Respondent consents and agrees to the assessment of a civil penalty of \$1,300.00 which, shall be paid by sending, via certified mail, a cashier's or certified check for that amount, payable to "Oil Spill Liability Trust Fund" along with a signed copy of this agreement, to:

Jane Nakad  
Technical Enforcement Program (8ENF-T)  
USEPA Region 8  
999 18th Street, Suite 300  
Denver, CO 80202-2466

Respondent further agrees and consents that if Respondent fails to pay the penalty amount as required by this agreement once incorporated into the final order, or fails to make the corrective measures to obtain compliance as represented, this agreement is null and void, and EPA may pursue any applicable enforcement options.

The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this agreement and to bind Respondent to the terms and conditions of this agreement.

The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with request that it be incorporated into a final consent order.

Each party shall bear its own costs and attorneys fees in connection with this matter.

This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations described in this agreement.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION VIII,  
Office of Enforcement Compliance and Environmental Justice, Complainant.**

By : **SIGNED** 3-17-03  
Elisabeth Evans, Director  
Technical Enforcement Program

**Eastern Farmers Cooperative, Respondent.**

By: **SIGNED** \_\_\_\_\_ Name: **Charles Springman**  
Title: **Petroleum Manager**

## List of SPCC Plan Violations

SPCC Plan [40 C.F.R. § 112.3]:

Failure to prepare and implement a facility SPCC Plan in accordance with 40 C.F.R. § 112.7.

Some of the specific violations at the Eastern Farmers Cooperative are:

The fuel loading rack does not have a “No Smoking” sign posted in accordance with the DOT regulation as required by 40 C.F.R. § 112.3(e)(4)(i).

No secondary containment for truck loading/unloading areas in violation of 40 C.F.R. § 112.7(e)(4)(ii).

No warning/barrier systems to prevent premature vehicular departure in violation of 40 C.F.R. § 112.7(e)(4)(iii).

Lacks procedures for inspections and for maintaining inspection records for three years in violation of 40 C.F.R. § 112.7(e)(8). The tanks have visible rust, both top and bottom. Inspections, other than casual visual inspections, do not appear to have been performed.

The facility is not fenced in violation of 40 C.F.R. § 112.7(e)(9)(i).

Facility lacks sufficient lighting to discourage vandalism and facilitate detection of leaks in violation of 40 C.F.R. § 112.7(e)(9)(v).

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED CONSENT AGREEMENT/FINAL ORDER** in the matter of **EASTERN FARMERS COOPERATIVE, DOCKET NO.: CWA-08-2003-39** was filed with the Regional Hearing Clerk on March 25, 2003

Further, the undersigned certifies that a true and correct copy of the document was delivered to Michael Risner, Enforcement Attorney, U.S. EPA - Region VIII, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt to:

Charles Springman  
Eastern Farmers Cooperative  
P. O. Box 155  
Lennox, SD 57039-0155

and

Commander  
Finance Center (OGR)  
U.S. Coast Guard  
1430 A Kristina Way  
Chesapeake, VA 23326

March 25, 2003

**SIGNED**

\_\_\_\_\_  
Tina Artemis  
Regional Hearing Clerk

**THIS DOCUMENT WAS FILED IN THE RHC'S ON MARCH 25, 2003**